

REMARKS

Claims 1, 7-9, 14, 18, 28, 31, as amended, and new claim 36 appear in this application for the Examiner's review and consideration. Claims 2-6, 10-13, 15-17, 19-27, 29-30, and 32-25 have been cancelled herein. Claim 1 has been amended to incorporate the features of claims 6 and 26, while claims 7-8 are amended to correct dependencies. New claim 36 is directed to a preferred embodiment. As no new matter has been introduced, the entry of these changes and additions at this time is warranted.

Claims 1-21 and 26-27 were rejected as failing to comply with the written description requirement. The Examiner alleges that "...there is insufficient written description encompassing a antitumor agent derived from reptile serum comprising at least one serum protein from normal reptile serum because the relevant identifying characteristics of the genus such as structure or other physical and/or chemical characteristics of a 'anti tumor agent' are not set forth in the specification as filed..." (Office Action page 3 last line to page 4, line 4).

In response, the subject matter of claim 26 has been inserted into claim 1. Step (d) of amended claim 1 was further amended to read "fractionating the desalted protein; and...". Support for this amendment can be found in the instant specification, page 3 lines 8-9. Thus, claim 1 describes the anti-tumor agent by means of the source from which it has been obtained, as well as a process, by which it may be produced, so that the invention is defined by way of a product-by process format which fully enables the product. Thus, it is the Applicant's view that there is a full enablement of the product described in the instant specification as filed so that this rejection should be withdrawn..

The Examiner further rejected claims 1, 5, 9-10, 13-14, 17-18, 21 and 26-27 under 35 U.S.C. 102 (b) and (e) as being anticipated by Aizawa et al. (Nihon Univ. J. Med. 1964; 6:97-110); claims 1-4, 8-21 and 26-27 were rejected as being anticipated by Salceda et al., (U.S. Application No. 2002/0127237) as evidenced by Cruse, J.M. and Lewis, R.E. (Illustrated Dictionary of Immunology; New York, 1995, pages 157-158).

Applicants acknowledge the Examiner's notice that claims 6-7 are free of the prior art. While Applicants respectfully traverse the Examiner's rejections under 35 U.S.C. 102 (b) and (e), in order to expedite the prosecution towards allowance, claim 1 is amended to include the recitations of claim 6, and claims 2-6, 10-13, 15-17, 19-27, 29-30, and 32-35 are currently canceled, without prejudice to Applicants' rights to pursue those claims in a continuing or divisional application.

Finally, claims 28 and 31 have been amended to depend from claim 1. As method claims which incorporate the features of an allowed composition claim are also allowable, it is respectfully submitted that these claims should be re-joined and allowed with the composition claims.

In view of the above, it is respectfully submitted that all current rejections have been overcome and should be withdrawn. Accordingly, the entire application is believed to be in condition for allowance, early notice of which would be appreciated. Should the Examiner not agree, then a personal or telephonic interview is respectfully requested to discuss any remaining issues and expedite the eventual allowance of this application.

Respectfully submitted,

Date: 11/8/06

for: [Signature] (Reg. No. 57,073)
Allan A. Fanucci (Reg. No. 30,256)

WINSTON & STRAWN LLP
CUSTOMER NO. 28765
(212) 294-3311